

SENT TO GOVERNOR

(May 20, 1993)

S.B. 150
S.B. 269
S.B. 327
S.B. 355
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S.B. 556
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S.B. 614
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SEVENTY-SECOND DAY

(Friday, May 21, 1993)

The Senate met at 10:30 a.m. pursuant to adjournment and was called to order by Senator Montford.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

A quorum was announced present.

Pastor Rob Koke, Christian Faith Center, Austin, offered the invocation as follows:

Heavenly Father, I come to You in Jesus' name. Only through Your wisdom, grace, and mercy can we move toward solving the problems of our society and creating opportunity for all. In Your word You said if anyone asks wisdom let him ask of You and You would supply it generously. We ask You for that wisdom and for courage and strength to make the kind of decisions today that prove right for tomorrow. In Jesus' name. Amen.

On motion of Senator Harris of Dallas and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

SENATE RESOLUTION ON FIRST READING

The following resolution was introduced, read first time, and referred to the committee indicated:

S.R. 1004 by Ellis, Barrientos Administration
Directing the Senate Committee on Nominations to conduct an interim study of the requirements and qualifications involved and the criteria used in the selection of branch pilots, the possible existence of nepotism, and the possibility of discrimination in the selection process for branch pilots.

BILLS AND RESOLUTIONS SIGNED

The Presiding Officer announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

S.C.R. 62	S.B. 398
S.C.R. 81	S.B. 403
S.B. 301	S.B. 477
S.B. 323	S.B. 706

PERMISSION TO MEET GRANTED

Senator Brown, on behalf of Senator Whitmire, asked unanimous consent to grant the conference committees on S.B. 532 and S.B. 1067 permission to meet while the Senate was in session.

There was no objection.

GUESTS PRESENTED

Senator Brown was recognized and introduced to the Senate Douglas Johnson and Calvin Eugene of Woolridge High School in Houston, accompanied by their teacher, Lee Thomas. Douglas and Calvin are recipients of a "Capital Day at the Capitol" auction item donated by Senator Brown to the Fort Bend Chamber of Commerce.

The Senate welcomed its guests.

CAPITOL PHYSICIAN

Senator Henderson was recognized and presented Dr. Earl Martin of Tomball as the "Doctor for the Day."

The Senate welcomed Dr. Martin and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

SENATE BILL 387 WITH HOUSE AMENDMENT

Senator Bivins called S.B. 387 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend S.B. 387 by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to the suspension of the driver's privileges of a person convicted of certain offenses or adjudicated as having engaged in certain conduct.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (a), (a-1), and (d), Section 24, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Except as provided by Subsection (g) of this Section, the license of any person shall be automatically suspended upon final conviction of:

(1) an offense under Section 19.07, Penal Code, committed as a result of the person's criminally negligent operation of a motor vehicle;

(2) an offense under Section 19.05(a)(2), Penal Code;

(3) an offense under Article 67011-1, Revised Statutes, committed as a result of the introduction of alcohol into the body;

(4) an offense punishable as a felony under the motor vehicle laws of this State;

(5) an offense under Section 38, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes); or

(6) an offense under Section 32 or 32A of this Act.

(a-1) The license of any person who was younger than 21 years of age at the time of the offense, other than a misdemeanor punishable by fine only, shall be automatically suspended on conviction of:

(1) an offense under Article 67011-1, Revised Statutes, committed as a result of the introduction of alcohol into the body;

(2) an offense under the Alcoholic Beverage Code involving the manufacture, delivery, possession, transportation, or use of an alcoholic beverage;

(3) a misdemeanor [an] offense under Chapter 481, Health and Safety Code (Texas Controlled Substances Act), for which Section 24B of this Act does not require the automatic suspension of the license of the person [involving the manufacture, delivery, possession, transportation, or use of a controlled substance];

(4) an offense under Chapter 483, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of a dangerous drug; or

(5) an offense under Chapter 484, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of a volatile chemical.

(d) Except as provided by Subsections (g), (h), and (j) of this Section, if a person is convicted of an offense under Article 67011-1, Revised Statutes, committed as a result of the introduction of alcohol into the body.

the suspension of the person's license shall be for a period determined by the court according to the following schedule:

(1) not less than ninety (90) or more than three hundred sixty-five (365) days, if the person is punished under Subsection (c) of that article, whether or not the punishment is increased under Subsection (f) of that article; or

(2) not less than one hundred eighty (180) days or more than two (2) years, if the person is punished under Subsection (d) or (e) of that article, whether or not the punishment is increased under Subsection (f) of that article.

SECTION 2. Subsections (a), (b), (d), and (e), Section 24B, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) In this section:

(1) "Controlled Substances Act" means the federal Controlled Substances Act (21 U.S.C. Section 321 et seq.).

(2) "Drug offense" has the meaning assigned by 23 U.S.C. Section 159(c) and includes an offense under Article 6701i-1, Revised Statutes, or Section 19.05(a)(2), Penal Code, committed as a result of the introduction into the body of any substance the possession of which is prohibited under the Controlled Substances Act [104, as amended by Section 333, Pub.L. No. 101-516].

(3) "Convicted" includes an adjudication under juvenile proceedings.

(b) The driver's license, if any, of a person shall be automatically suspended on final conviction of:

(1) an offense [a felony] under the Controlled Substances Act;

(2) a [felony] drug offense; or

(3) a felony under Chapter 481, Health and Safety Code, that is not a drug offense.

(d) The department is prohibited from issuing a driver's license to a person convicted of an offense specified in Subsection (b) of this section [a felony under the Controlled Substances Act, of a felony drug offense, or of a felony under Chapter 481, Health and Safety Code,] who on the date of conviction did not have a valid driver's license.

(e) The department is prohibited from reinstating the driver's license of a person convicted of an offense specified in Subsection (b) of this section [a felony under the Controlled Substances Act, of a felony drug offense, or of a felony under Chapter 481, Health and Safety Code,] if the driver's license was under suspension on the date of conviction.

SECTION 3. Subsections (a) and (b), Section 54.042, Family Code, are amended to read as follows:

(a) A juvenile court, in a disposition hearing under Section 54.04 of this code, shall:

(1) order the Department of Public Safety to suspend a child's driver's license or permit, or if the child does not have a license or permit, to deny the issuance of a license or permit to the child if the court finds that the child has engaged in conduct that violates a law [the laws] of this state enumerated in Section 24(a-1), Chapter 173, Acts of the 47th

Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes); or

(2) notify the Department of Public Safety of the adjudication, if the court finds that the child has engaged in conduct that violates a law of this state enumerated in Section 24B(b), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes) [prohibiting:

(1) driving while intoxicated under Article 67011-1, Revised Statutes; or

(2) the use, possession, manufacture, or delivery of a controlled substance or marihuana under Chapter 481, Health and Safety Code].

(b) The order under Subsection (a)(1) of this section shall specify a period of suspension or denial that is:

(1) until the child reaches the age of 17 or for a period of 365 days, whichever is longer; or

(2) if the court finds that the child has engaged in conduct violating the laws of this state prohibiting driving while intoxicated, by reason of the introduction of alcohol into the body, under Article 67011-1, Revised Statutes, and also determines that the child has previously been found to have engaged in conduct violating the same laws, until the child reaches the age of 19 or for a period of 365 days, whichever is longer.

SECTION 4. Subsection (c), Section 25, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) For the purpose of this Act, the term "conviction" shall mean a final conviction. A conviction ~~[of an offense described in Section 24(a) or (a-1) of this Act]~~ is a final conviction whether or not any portion of the sentence for the conviction was suspended or probated. Also, for the purpose of this Act, a final judgment of forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

SECTION 5. This Act takes effect June 15, 1993, and applies only to a person convicted of an offense committed, or adjudicated under juvenile proceedings for conduct engaged in, on or after the effective date of this Act. For purposes of this section, an offense was committed or conduct was engaged in before the effective date of this Act if any element of the offense or conduct occurred before the effective date. An offense committed or conduct engaged in before the effective date of this Act is covered by the law in effect when the offense was committed or the conduct was engaged in, and the former law is continued in effect for this purpose.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The amendment was read.

Senator Bivins moved to concur in the House amendment to S.B. 387.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 87 WITH HOUSE AMENDMENT

Senator Armbrister called S.B. 87 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend S.B. 87 as follows:

- (1) On page 1, line 9, strike "~~who:~~" and substitute "~~who~~:".
- (2) On page 1, line 10, strike "~~[(A)]~~" and substitute "(A)".
- (3) On page 1, line 14, strike "~~[-or]~~" and substitute "; or".
- (4) On page 1, strike lines 15 through 17 and substitute the following:
"(B) has participated as a member of such a sports team at an institution of higher education and who has never signed a contract of employment with a professional sports team."

The amendment was read.

On motion of Senator Armbrister and by unanimous consent, the Senate concurred in the House amendment to S.B. 87 by a viva voce vote.

SENATE BILL 640 WITH HOUSE AMENDMENT

Senator Sims called S.B. 640 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment No. 1 on Third Reading

Amend S.B. 640 on third reading in Section 2 of the bill, in Section 66.62(g), Education Code, by striking the subsection and substituting the following:

(g) Unless the action relates to the final approval of the award of a lease on a form approved by a majority of the board in accordance with procedures for awarding leases that have been previously approved by a majority of the board, a [A] majority of the board members has the power to act for the board. If the action relates to the final approval of the award of a lease on a form approved by a majority of the board in accordance with procedures for awarding leases that have been previously approved by a majority of the board, two board members present at a meeting have the power to act for the board.

The amendment was read.

On motion of Senator Sims and by unanimous consent, the Senate concurred in the House amendment to S.B. 640 by a viva voce vote.

SENATE BILL 953 WITH HOUSE AMENDMENT

Senator Wentworth called S.B. 953 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment No. 1

Amend S.B. 953 as follows:

On page 4, line 19, amend the following:

"no more than two persons licensed under Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), and its subsequent amendments are eligible to serve as a member of the committee"

The amendment was read.

On motion of Senator Wentworth and by unanimous consent, the Senate concurred in the House amendment to S.B. 953 by a viva voce vote.

SENATE BILL 701 WITH HOUSE AMENDMENT

Senator Leedom called S.B. 701 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend S.B. 701 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to interlocal cooperation contracts for health care and hospital services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 791.003(3), Government Code, is amended to read as follows:

(3) "Governmental functions and services" means all or part of a function or service in any of the following areas:

- (A) police protection and detention services;
- (B) fire protection;
- (C) streets, roads, and drainage;
- (D) public health and welfare;
- (E) parks and recreation;
- (F) library and museum services;
- (G) records center services;
- (H) waste disposal;
- (I) planning;
- (J) engineering;
- (K) administrative functions;

(L) public funds investment;
(M) comprehensive health care and hospital services; or
(N) ~~(M)~~ other governmental functions in which the contracting parties are mutually interested.

SECTION 2. Subchapter C, Chapter 791, Government Code, is amended by adding Section 791.030 to read as follows:

Sec. 791.030. HEALTH CARE AND HOSPITAL SERVICES. A local government may contract with another local government authorized to provide health care and hospital services to provide those services for the local government's officers and employees and their dependents.

SECTION 3. This Act takes effect September 1, 1993.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Leedom and by unanimous consent, the Senate concurred in the House amendment to S.B. 701 by a viva voce vote.

SENATE BILL 936 WITH HOUSE AMENDMENTS

Senator Brown called S.B. 936 from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Amendment No. 1

Amend S.B. 936, as follows:

(1) On page 1, line 16, before the word "benefits" insert "temporary income".

(2) On page 1, line 17, between "compensation" and "will" insert "from temporary income benefits and assault leave policy benefits".

Amendment No. 2

Amend S.B. 936 on line 11 after "assault." by inserting the following: "At the request of an employee, the school district must immediately assign an employee to assault leave and, upon investigation of the claim, may change the assault leave status and charge the leave against the employee's accrued sick leave or against an employee's pay if insufficient accrued sick leave is available."

The amendments were read.

On motion of Senator Brown and by unanimous consent, the Senate concurred in the House amendments to S.B. 936 by a viva voce vote.

(President in Chair)

GUEST PRESENTED

The President introduced to the Senate United States Congressman Henry Bonilla of San Antonio.

The Senate welcomed Representative Bonilla.

GUEST PRESENTED

Senator Zaffirini was recognized and introduced to the Senate County Judge of Webb County Raul Vasquez.

The Senate welcomed Judge Vasquez.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

H.B. 37	H.B. 829	H.B. 1967
H.B. 78	H.B. 1153	H.B. 2209
H.B. 130	H.B. 1207	H.B. 2460
H.B. 167	H.B. 1226	H.B. 2493
H.B. 365	H.B. 1262	H.B. 2705
H.B. 392	H.B. 1408	H.B. 2833
H.B. 515	H.B. 1659	H.B. 1252
H.B. 565	H.B. 1686	H.C.R. 68
H.B. 603	H.B. 1735	H.C.R. 129
H.B. 722	H.B. 1756	H.C.R. 137
H.B. 795	H.B. 1779	

SENATE BILL 877 WITH HOUSE AMENDMENTS

Senator Montford called S.B. 877 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment No. 1

Amend S.B. 877 in Section 1 of the bill in the added Section 301.061(a), Government Code, between "the legislature" and "may employ", by inserting "after notifying and consulting the attorney general".

Amendment No. 2

Amend S.B. 877 in Section 1 of the bill, by adding new Subsection (d) to Section 301.061, Government Code (following line 23 on page 1), to read as follows:

(d) A member of the legislature is immune from civil liability resulting from the legislature's participating in litigation under this section, including liability for attorney's fees, costs, and sanctions that may be awarded in the litigation. This subsection is cumulative of the common law immunity applicable to the conduct of members of the legislature.

Amendment No. 1 on Third Reading

Amend S.B. 877 on third reading as follows:

(1) On page 2, between lines 1 and 2 add new SECTIONS 3 and 4 of the bill to read as follows:

"SECTION 3. Sec. 402.0212, Government Code, is amended by adding a new Subsection (c) to read as follows:

(c) This section shall not apply to the Texas Turnpike Authority.

SECTION 4. Sec. 21d, Article 6674v, is hereby repealed."

(2) Renumber remaining sections appropriately.

The amendments were read.

Senator Montford moved to concur in the House amendments to S.B. 877.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Barrientos.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 82 ADOPTED

Senator Montford called from the President's table the Conference Committee Report on S.B. 82. The Conference Committee Report was filed with the Senate on Wednesday, May 19, 1993.

On motion of Senator Montford, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

SENATE BILL 485 WITH HOUSE AMENDMENTS

Senator Parker called S.B. 485 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment No. 1

Amend S.B. 485 as follows:

(1) In Section 1 of the bill, in added Section 61.083(a), Education Code, insert the following after "education,": Each member of a governing board of an institution of higher education shall attend, during the member's first two years of service as a member of a governing board of an institution of higher education, at least one training program seminar under this section. A member may, but need not, attend additional seminars under this section.

(2) In Section 1 of the bill, in added Section 61.083(b), Education Code, strike "shall require the attendance of all governing board members at" and substitute "must include".

(3) Add the following appropriately numbered section and renumber the remaining sections accordingly:

SECTION _____. Notwithstanding the requirement in Section 61.083(a), Education Code, as added by this Act, that a member of a governing board of an institution of higher education attend a training seminar in the member's first two years of service, a person serving as a member of a governing board of an institution of higher education on the effective date of this Act, shall attend a training seminar under that section not later than September 1, 1995.

Floor Amendment No. 2

Amend S.B. 485 on page 2, line 1, by striking "public" and substitute "appropriated"

The amendments were read.

On motion of Senator Parker and by unanimous consent, the Senate concurred in the House amendments to S.B. 485 by a viva voce vote.

HOUSE BILL 2585 ON SECOND READING

Senator Luna moved to suspend the regular order of business to take up for consideration at this time:

H.B. 2585, Relating to advisory commissions for the Central Education Agency.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2585 ON THIRD READING

Senator Luna moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2585** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

GUEST PRESENTED

Senator Truan was recognized and introduced to the Senate newly elected Member of the Texas House of Representatives Velma Luna of Corpus Christi.

The Senate welcomed Representative Luna.

HOUSE BILL 2637 ON SECOND READING

Senator Montford moved to suspend the regular order of business to take up for consideration at this time:

H.B. 2637, Relating to qualification for sales and use tax exemption for film, video, and audio recording production in Texas.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 2637 ON THIRD READING

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2637** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 1009 ON SECOND READING

On motion of Senator Haley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1009, Relating to the recovery by certain state agencies of the costs of providing copies of or access to public records.

The bill was read second time.

Senator Haley offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **H.B. 1009** by adding an appropriately numbered section to read as follows:

SECTION . Chapter 324, Government Code, is amended by adding Section 324.010 to read as follows:

Sec. 324.010. COPY COSTS. FORMAT. The library has exclusive authority to determine the charge for copies or reproduction of records in the custody of the library. The library may reproduce records in a format such as CD-ROM, another computer-readable format, or any other format determined by the library and provide records in that format for a charge determined by the library.

The committee amendment was read and was adopted by a viva voce vote.

Senator Haley offered the following amendment to the bill:

Floor Amendment No. 1

Amend **H.B. 1009**, page 4, by striking SECTION 6 from the bill in its entirety.

The amendment was read and was adopted by a viva voce vote.

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 2

Amend **H.B. 1009** on page 2 by adding new Section 6 as follows and by renumbering existing subsections accordingly:

SECTION 6. Section 253.007, Local Government Code, as enacted by **H.B. 1408**, Acts of the 73rd Legislative Session is amended by adding Subsection (d) to read as follows:

"(d) Notwithstanding any other provision of this section, this section does not apply to the cost of production for public inspection or copying of public records collected, assembled, or maintained through use of the software, which cost is governed by Section 9 of Article 6252-17a, Vernon's Texas Civil Statutes, without regard to the cost of developing the software."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Haley and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1009 ON THIRD READING

Senator Haley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1009** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1135 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1135, Relating to the towing of vehicles.

The bill was read second time.

Senator Wentworth offered the following committee amendment to the bill:

Amend **H.B. 1135** to add new Section 3 as follows and renumber subsequent sections accordingly:

Section 3. Repealer. The Administrative Adjudication of Parking Offenses Act (Article 6701d-24, Vernon's Texas Civil Statutes) is repealed.

The committee amendment was read.

On motion of Senator Wentworth and by unanimous consent, the committee amendment was withdrawn.

The bill was passed to third reading by a viva voce vote.

HOUSE BILL 1135 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1135** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 272 ON SECOND READING

On motion of Senator Haley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 272, Relating to accessibility of vehicle accident reports.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 272 ON THIRD READING

Senator Haley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 272** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**MOTION TO PLACE
COMMITTEE SUBSTITUTE
HOUSE BILL 85 ON SECOND READING**

Senator Ratliff moved to suspend the regular order of business to take up for consideration at this time:

C.S.H.B. 85, Relating to the taxation of property used for the improvement of realty for a county.

On motion of Senator Ratliff and by unanimous consent, the motion to suspend the regular order of business was temporarily withdrawn.

**COMMITTEE SUBSTITUTE
HOUSE BILL 158 ON SECOND READING**

On motion of Senator Rosson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 158, Relating to the adoption of certain emergency rules under the Administrative Procedure and Texas Register Act.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 158 ON THIRD READING**

Senator Rosson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 158** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 361 ON SECOND READING

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 361, Relating to tax abatement agreements and truth in taxation.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 361 ON THIRD READING

Senator Parker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 361** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 85 ON SECOND READING**

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 85, Relating to the taxation of property used for the improvement of realty for a county.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

Amend **C.S.H.B. 85** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 151.311, Tax Code, is amended to read as follows:

Sec. 151.311. TAXABLE ITEMS INCORPORATED INTO OR [PROPERTY] USED FOR IMPROVEMENT OF REALTY OF AN EXEMPT ENTITY [OF A SCHOOL DISTRICT OR NONPROFIT HOSPITAL]. (a) The purchase of tangible personal property for use in the performance of a contract for an improvement to realty for an organization exempted under Section 151.309 or 151.310 of this code is exempt if the tangible personal property is incorporated into realty in the performance of the contract.

(b) The purchase of tangible personal property, other than machinery or equipment and its accessories and repair and replacement parts, for use in the performance of a contract for an improvement to realty for an organization exempted under Section 151.309 or 151.310 of this code is exempt if the tangible personal property is:

(1) necessary and essential for the performance of the contract;
and

(2) completely consumed at the job site.

(c) The purchase of a taxable service for use in the performance of a contract for an improvement to realty that is performed for an organization exempted under Section 151.309 or 151.310 of this code is exempt if the service is performed at the job site and if:

(1) the contract expressly requires the specific service to be provided or purchased by the person performing the contract; or

(2) the service is integral to the performance of the contract.

(d) For purposes of this section, tangible personal property is completely consumed if after being used once for its intended purpose it is used up or destroyed. Tangible personal property that is rented or

~~leased for use in the performance of the contract cannot be completely consumed for purposes of this section. [Tangible personal property purchased by a contractor for use in the performance of a contract for the improvement of realty for a school district or nonprofit hospital is exempted from the taxes imposed by this chapter to the extent of the value of the tangible personal property used or consumed or both in the performance of the contract. In this section "nonprofit hospital" means a hospital licensed under Chapter 241 or 577, Health and Safety Code, that is operated as a charitable or nonprofit establishment.]~~

SECTION 2. (a) There are exempted from the taxes imposed by Chapter 151, Tax Code, machinery or equipment and its accessories and repair and replacement parts purchased by a contractor for use in the performance of a contract for the improvement of realty for a school district or nonprofit hospital that became subject to sales or use tax because of amendments to Section 151.311, Tax Code, and that were purchased subject to a written contract or bid entered into on or before the effective date of this Act. The exemption provided by this section has no effect after three years from the effective date of this Act.

(b) In this section, "nonprofit hospital" means a hospital licensed under Chapter 241 or 577, Health and Safety Code, that is operated as a charitable or nonprofit establishment.

SECTION 3. This Act takes effect on the first day of the first quarter following the 91st day after the day on which the 73rd Legislature, Regular Session, 1993, adjourns.

SECTION 4. This Act applies to taxes due on or after the effective date of this Act. Taxes due before the effective date of this Act are governed by the law in effect when the taxes became due, and that law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Ratliff and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 85 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.H.B. 85 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 709 ON SECOND READING

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 709, Relating to storage fees charged by a vehicle storage facility.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 709 ON THIRD READING

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 709** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 710 ON SECOND READING

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 710, Relating to fees charged by a vehicle storage facility.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 710 ON THIRD READING

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 710** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE**HOUSE BILL 891 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 891, Relating to the use of revenue generated by the hotel tax by certain counties.

The bill was read second time.

On motion of Senator Armbrister and by unanimous consent, **C.S.H.B. 891** was withdrawn and **H.B. 891** was considered in lieu thereof.

H.B. 891 was passed to third reading by a viva voce vote.

HOUSE BILL 891 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 891** be placed on its third reading and final passage.

H.B. 891, Relating to the use of revenue generated by the hotel tax by counties bordering the Gulf of Mexico.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 1122 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1122, Relating to the use of municipal hotel occupancy taxes.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1122 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1122** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 1123 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1123, Relating to the use of county hotel occupancy taxes.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1123 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1123** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

(Senator Bivins in Chair)

COMMITTEE SUBSTITUTE**HOUSE BILL 1193 ON SECOND READING**

Senator Montford moved to suspend the regular order of business to take up for consideration at this time:

C.S.H.B. 1193, Relating to appropriations for payment of certain claims against state agencies.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1193 ON THIRD READING**

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 1193** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1493 ON SECOND READING**

On motion of Senator Turner and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1493, Relating to the transfer of persons serving determinate sentences from the Texas Youth Commission to the institutional division of the Texas Department of Criminal Justice.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1493 ON THIRD READING**

Senator Turner moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 1493** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

GUESTS PRESENTED

Senator Barrientos, joined by Senator Armbrister, was recognized and introduced to the Senate a group of students and their teachers and sponsors from Genesis High School in Bastrop, an Academic Alternative High School.

The Senate welcomed its guests.

HOUSE BILL 1220 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1220, Relating to the management of certain funds of the institutional division of the Texas Department of Criminal Justice.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1220 ON THIRD READING

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1220** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1595 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1595, Relating to the use of certain funds in the unclaimed money fund for economic development by counties.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1595 ON THIRD READING

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1595** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 1630 ON SECOND READING

On motion of Senator Harris of Tarrant and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1630, Relating to the rights, privileges, duties, and powers of conservators.

The bill was read second time.

Senator Harris of Tarrant offered the following committee amendment to the bill:

Committee Amendment

Amend **H.B. 1630** as follows:

Delete current Sections 4 and 5 and add Sections 4 through 10 to read: SECTION 4. Section 14.032(a), (b), and (c), Family Code, are amended to read as follows:

(a) Policy and Application. [Child Three Years of Age or Older.] The guidelines for the possession of a child by a parent named as a Possessory Conservator in this chapter are intended to guide the courts in determining the terms and conditions for possession of a child by a parent named as a possessory conservator in any suit affecting the parent-child relationship. It is the policy of this state to encourage frequent contact between a child and each parent for periods of possession that optimize the development of a close and continuing relationship between each parent and child. It is preferable for all children in a family to be together during period of possession. The "standard possession order" is [These guidelines are] designed to apply to a child three years of age or older.

(b) Child Less Than Three Years of Age [Old]. In rendering an order for possession of a child less than three years of age the court shall make an order appropriate under the circumstances considering the factors listed in Subsection (c) below. The [old, the court may either render a "standard possession order," as defined in Section 14.033 of this code, or an order appropriate under the circumstances considering the age of the child. If a standard possession order is not rendered, the] court shall also render a prospective order to take effect on the child's third birthday, which presumptively will be the standard possession order.

(c) Factors. In determining the terms of possession of a child, the court shall be guided by the guidelines and may consider [, in varying from or following the guidelines]:

- (1) the age, developmental status, circumstances, needs, and best interest of the child;
- (2) the circumstances of the managing conservator and of the parent named as a possessory conservator; and
- (3) any other relevant factor.

SECTION 5. Section 14.033(b), (c), (d), (e), (f), (g), (h), (i), (j) and (m) Family Code are amended as follows:

(b) Mutual Agreement or Specified Terms for Possession. The court shall expressly state in a standard order that the parties may have possession of the child at any and all times mutually agreed to in advance by the parties and, in the absence of [failing] mutual agreement, shall have possession of the child under the specified terms set out in the standard order.

(c) Parents Who Reside 100 Miles or Less Apart. Except as otherwise explicitly provided, if the possessory conservator resides 100 miles or less from the primary residence of the child, the possessory conservator shall have the right to possession of the child as follows:

- (1) on weekends beginning at [from] 6:00 p.m. on the first, third, and fifth Friday of each month and ending at [until] 6:00 p.m. on the following Sunday or, at the possessory conservator's election made before or at the time of the rendition of the original or modification order, and as specified in the original or modification order, beginning at [from] the time the child's school is regularly dismissed and ending at [day ends, if any, until] 6:00 p.m. on the following Sunday; and

- (2) on Wednesdays of each week during the regular school term beginning at [from] 6:00 p.m. and ending at [until] 8:00 p.m. or, at the

possessory conservator's election made before or at the time of the rendition of the original or modification order, and as specified in the original or modification order, beginning at [from] the time the child's school is regularly dismissed and ending at [day ends, if any, until] 8:00 p.m.

(d) Weekend Possession Extended by Holidays. Except as otherwise explicitly provided, if a weekend period of possession of the possessory conservator coincides with a school holiday during the regular school term or with a federal, state or local holiday during the summer months in which school is not in session, the weekend possession shall end at [extend until] 6:00 p.m. on a Monday holiday or school holiday or shall begin at 6:00 p.m. Thursday for a Friday holiday or school holiday, as applicable or, at the possessory conservator's election, made before or at the time of the rendition of original or modification order, and as specified in the original or modification order, shall begin at the time the child's school is regularly dismissed.

(e) Vacations and Holidays. The following provisions govern possession of the child for vacations and for specific holidays and supersede any conflicting weekend or Wednesday periods of possession provided by Subsections (c) and (d) of this section. The possessory conservator and the managing conservator shall have rights of possession of the child as follows:

(1) the possessory shall have possession of the child in even-numbered years beginning at [from] 6:00 p.m. on the [last school] day the child is dismissed from school for [before] the Christmas school vacation and ending at [begins until] noon on December 26, and the managing conservator shall have possession for the same period in odd-numbered years;

(2) the possessory conservator shall have possession in odd-numbered years beginning at [from] noon on December 26 and ending at [until] 6:00 p.m. on the day before school resumes after that vacation, and the managing conservator shall have possession for the same period in even-numbered years;

(3) the possessory conservator shall have possession in odd-numbered years, beginning at [from] 6:00 p.m. on the day the child is dismissed for school [the Wednesday] before Thanksgiving and ending at [until] 6:00 p.m. on the following Sunday, and the managing conservator shall have possession for the same period in even-numbered years;

(4) the possessory conservator shall have possession in even-numbered years, beginning at [from] 6:00 p.m. on the [last school] day the child is dismissed from school for [before] the school's spring vacation and ending at [begins until] 6:00 p.m. on the day before school resumes after that vacation, and the managing conservator shall have possession for the same period in odd-numbered years;

(5) if any possessory conservator:

(A) gives the managing conservator written notice by May 1 of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 30 days beginning no earlier than the day after the child's school is

dismissed for the summer vacation and ending no later than 7 days prior to school resuming at the end of the summer vacation [between June 1 and August 31], to be exercised in no more than two separate periods of at least seven consecutive days each; or

(B) does not give the managing conservator written notice by May 1 of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 30 consecutive days beginning at 6:00 p.m. on July 1 and ending at 6:00 p.m. on July 31;

(6) if the managing conservator gives the possessory conservator written notice by June 1 [May 15] of each year ~~[or gives the possessory conservator 14 days' written notice on or after May 16 of each year]~~, the managing conservator shall have possession of the child on any one weekend beginning [from] Friday at 6:00 p.m. and ending at [to] 6:00 p.m. on the following Sunday during any one period of possession by the possessory conservator under Subdivision (5) of this subsection, provided that the managing conservator picks up the child from the possessory conservator and returns the child to that same place;

(7) if the managing conservator gives the possessory conservator written notice by May 15 of each year or gives the possessory conservator 14 days' written notice on or after May 16 of each year, the managing conservator may designate one weekend between beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than 7 days prior to school resuming at the end of the summer vacation [between June 1 and August 31], during which an otherwise scheduled weekend period of possession by the possessory conservator will not take place, provided that the weekend so designated does not interfere with the possessory conservator's period or periods of extended summer possession or with Father's Day if the possessory conservator is the father of the child;

(8) the parent not otherwise entitled under this standard order to present [in] possession of a child on the child's birthday shall have possession of the child beginning at [from] 6:00 p.m. and ending at [to] 8:00 p.m. on that day, provided that [the] said parent [not in possession] picks up the child from the [child's] residence of the conservator entitled to possession and returns the child to that same place;

(9) if a conservator, the father shall have possession of the child beginning at 6:00 p.m. on the Friday preceding Father's Day and ending on Father's Day at [from 9:00 a.m. to] 6:00 p.m., provided that, if he is not otherwise entitled under this standard order to present [in] possession of the child, he picks up the child from the [child's] residence of the conservator entitled to possession and returns the child to that same place; and

(10) if a conservator, the mother shall have possession of the child beginning at 6:00 p.m. on the Friday preceding Mother's Day and ending on Mother's Day at [from 9:00 a.m. to] 6:00 p.m., provided that, if she is not otherwise entitled under this standard order to present [in] possession of the child, she picks up the child from the [child's] residence of the conservator entitled to possession and returns the child to that same place.

(f) **Parents Who Reside Over 100 Miles Apart.** Except as otherwise explicitly provided, if the possessory conservator resides more than 100 miles from the residence of the child, the possessory conservator shall have the right to possession of the child as follows:

(1) either regular weekend possession beginning on the first, third, and fifth Friday as provided under the terms of Subsections (c)(1) and (d) of this section, or not more than one weekend per month of the possessory conservator's choice beginning at 6:00 p.m. on the day school recesses for the weekend and ending at 6:00 p.m. on the day before school resumes after the weekend, provided that the possessory conservator gives the managing conservator seven days' written or telephonic notice preceding a designated weekend and provided that the possessory conservator elects an option for this alternative period of possession by written notice given to the managing conservator within 90 days after the parties begin to reside more than 100 miles apart as applicable, and provided that the weekend possessions do not conflict with Subsection (e)(1) through (3) and (c)(8) through (10) of this section;

(2) the terms of Subsections (e)(1) through (3) and (c)(8) through (10) of this section are applicable when the possessory conservator resides more than 100 miles from the residence of the child;

(3) each year beginning [every spring school vacation from 6:00 p.m.] on the day school for the child is dismissed from school for the school's spring vacation and ending at [recesses until] 6:00 p.m. on the day before school resumes after that vacation;

(4) if the possessory conservator:

(A) gives the managing conservator written notice by May 1 of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 42 days beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than 7 days prior to school resuming at the end of the summer vacation [between June 1 and August 31], to be exercised in no more than two separate periods of at least seven consecutive days each; or

(B) does not give the managing conservator written notice by May 1 of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 42 consecutive days beginning at 6:00 p.m. on June 15 and ending at 6:00 p.m. on July 27;

(5) if the managing conservator gives the possessory conservator written notice by June 1 [May 15] of each year [or gives the possessory conservator 14 days' notice on or after May 16 of each year;] the managing conservator shall have possession of the child on any one weekend beginning at [from] Friday at 6:00 p.m. and ending at [to] 6:00 p.m. on the following Sunday during any one period of possession by the possessory conservator under Subdivision (4) of this subsection, provided that if a period of possession by the possessory conservator exceeds 30 days, the managing conservator may have possession of the child under the terms of this subdivision on any two nonconsecutive weekends during that time period, and further provided that the managing

conservator picks up the child from the possessory conservator and returns the child to that same place; and

(6) if the managing conservator gives the possessory conservator written notice by May 15 of each year or gives the possessory conservator 30 days' written notice on or after May 16 of each year, the managing conservator may designate 21 days between beginning no earlier than the day after the child's school is dismissed for the summer vacation and ending no later than 7 days prior to school resuming at the end of the summer vacation [~~between June 1 and August 31~~], to be exercised in no more than two separate periods of at least seven consecutive days each, during which the possessory conservator shall not have possession of the child, provided that the period or periods so designated do not interfere with the possessory conservator's period or periods of extended summer possession or with Father's Day if the possessory conservator is the father of the child.

(g) General Terms and Conditions. Except as otherwise explicitly provided, terms and conditions of possession of a child that apply irrespective of the distance between the residence of a parent and the child are as follows:

(1) the managing conservator shall surrender the child to the possessory conservator at the beginning of each period of the possessory conservator's possession at the residence of the managing conservator;

(2) if the possessory conservator elects to begin a period of possession at the time the child's school is regularly dismissed, the managing conservator shall surrender the child to the possessory conservator at the beginning of each such period of possession at the school in which the child is enrolled;

(3) the possessory conservator shall be ordered to do one of the following:

(A) the possessory conservator shall surrender the child to the managing conservator at the end of each period of possession at the residence of the possessory conservator; or

(B) [~~in the alternative;~~] the possessory conservator shall return the child to the residence of the managing conservator at the end of each period of possession, except that the order shall provide that if the possessory conservator's county of domicile remains the same after the rendition of the order establishing terms and conditions of possession and access, and if the managing conservator's county of domicile should change, effective on the date of the change of domicile by the managing conservator, the possessory conservator shall surrender the child to the managing conservator at the end of each period of possession at the residence of the possessory conservator;

(4) if the possessory conservator elects to end a period of possession at the time the child's school resumes, the possessory conservator shall surrender the child to the managing conservator at the end of each period of possession at the school in which the child is enrolled;

(5) [(3)] each conservator shall return with the child the personal effects that the child brought at the beginning of the period of possession;

(6) ~~(4)~~ either parent may designate any competent adult to pick up and return the child, as applicable; a parent or a designated competent adult shall be present when the child is picked up or returned;

(7) ~~(5)~~ a parent shall give notice to the person in possession of the child on each occasion that the parent will be unable to exercise that parent's right of possession for any specified period; repeated failure of a parent to give notice of an inability to exercise possessory rights may be considered as a factor in a modification of those possessory rights;

(8) ~~(6)~~ written notice shall be deemed to have been timely made if received or postmarked before or at the time that notice is due; and

(9) ~~(7)~~ if a conservator's time of possession of a child ends at the time school resumes and for any reason the child is not or will not be returned to school, the conservator in possession of the child shall immediately notify the school and the other conservator that the child will not be or has not been returned to school.

(h) Means of Travel. In an order providing for the terms and conditions of possession ~~[possessory conservatorship]~~ of a child the court may restrict the means of travel of the child by a legal mode of transportation only after a showing of good cause contained in the record and a finding by the court that the restriction is in the best interest of the child. Further, the court shall set forth in its order the specific duties of the conservators to provide appropriate transportation to and from the relevant transportation facilities.

(i) Alternative Possession Times. If a child is enrolled in school, and the possessory conservator elects before or at the time of the rendition of the original or modification order ~~[consents and the court finds that it is in the best interest of the child]~~, the standard order may expressly provide that the possessory conservator's period of possession shall begin or end, or both, at a different time expressly set in the standard order under and within the range of alternative times provided by one or both of the following subdivisions:

(1) instead of a period of possession by a possessory conservator beginning at 6:00 p.m. on the day school recesses, the period of possession may be set in the standard possession order to beginning at the time the child's school is regularly dismissed ~~[recesses]~~ or at any time between the time the child's school is regularly dismissed ~~[recesses]~~ and 6:00 p.m.; and

(2) instead of a period of possession by a possessory conservator ending at 6:00 p.m. on the day before school resumes, the period of possession may be set in the standard order to end at the time school resumes or at ~~[any time between]~~ 6:00 p.m. on the day before school resumes ~~[and the time that school resumes]~~.

(j) Application of Alternate Possession Times. The alternate possession times provided by Subsection (i) of this section may be applied to regular weekend possession under Subsections (c)(1) and (f)(1) of this section and to holiday possession under Subsections (e)(1) through (4) and Subsections (f)(2) and (3) of this section, but Subsection (i)(2) of this section may not be applied to Christmas school vacation under Subsection (e)(1) of this section or Wednesday evening possession under Subsection (c)(2) of this section, and Subsection (i)(1) of this section may not be

~~applied to Christmas school vacation under Subsection (e)(2) of this section. Subsection (i)(1) of this section [but] may [not] be applied to Wednesday evening possession under Subsection (c)(2) of this section.~~

(m) Unusual Circumstances. If the work schedule or other special circumstances of the managing conservator, the possessory conservator, or the child, ~~or the year round school schedule of the child,~~ make the standard possession order unworkable or inappropriate, the court shall render an order that grants periods of possession of the child as similar as possible to those provided by the standard order.

SECTION 6. Section 14.01(a), Family Code is amended to read as follows:

(a) In any suit affecting the parent-child relationship, the court may appoint a sole managing conservator or may appoint joint managing conservators ~~[- and shall order reasonable terms and conditions for the implementation of the managing conservatorship].~~ A managing conservator must be a suitable, competent adult, or a parent, or an authorized agency. If the court finds the parents are or will be separated, the court shall appoint at least one ~~[joint or sole]~~ managing conservator.

SECTION 7. Section 14.021(a), Family Code, is amended to read as follows:

(a) It is the policy of this state to assure that children will have frequent and continuing contact with parents who have shown the ability to act in the best interest of the child, to provide a stable environment for the child and to encourage parents to share in the rights and responsibilities of raising their children after the parents have separated or dissolved their marriage.

SECTION 8. Section 14.08(c) and (d), Family Code, are amended to read as follows:

(c) After a hearing, the court may modify an order or a portion of a decree that:

(1) designates a sole managing conservator if:

(A) the circumstances of the child, sole managing conservator, possessory conservator, or other party affected by the order or decree have materially and substantially changed since the date of the rendition of the order or decree to be modified; and

(B) the retention of the present sole managing conservator would be injurious to the welfare of the child; and

(C) the appointment of a new sole managing conservator would be a positive improvement for the child; or

(2) provides for the support of a child if the circumstances of the child or a person affected by the order or portion of the decree to be modified have materially and substantially changed since the date of its rendition, except that a support order may be modified only as to obligations accruing after the earlier of the date of service of citation or an appearance on the motion to modify; or

(3) sets the terms and conditions for possession of or access to a child, or prescribes the relative rights, privileges, duties and powers of conservators if:

(A) the circumstances of the child or a person affected by the order or portion of the decree to be modified have substantially and materially changed since the date of rendition of the order or decree; or

(B) the order or portion of the decree to be modified has become unworkable or inappropriate under existing circumstances; or

(C) the notice required by Section 14.031 of this code was not given, or there was a change in the conservator's residence to a place outside the jurisdiction of the court. If a change of residence results in increased expenses for any party having possession of or access to a child, the court may enter appropriate orders to allocate those increased costs on a fair and equitable basis, taking into account the cause of the increased costs and the best interest of the child. The payment of increased costs by the party whose residence is changed is rebuttably presumed to be in the best interest of the child. Such an order may be entered without regard to whether any other change in the terms of possession of or access to the child is made; or

(4) designates a sole managing conservator if the sole managing conservator has voluntarily relinquished possession and control of the child for a period of more than six months and the modification is in the best interest of the child; or

(5) designates a sole managing conservator if a parent of the child requests appointment as a joint managing conservator, and the court finds that:

(A) the circumstances of the child or the sole managing conservator have materially or substantially changed since the rendition of the order or decree to be modified;

(B) retention of a sole managing conservator would be detrimental to the welfare of the child; and

(C) the appointment of the parent as a joint managing conservator would be a positive improvement for and in the best interest of the child.

(d) If the motion is filed for the purpose of changing the designation of the sole managing conservator and is filed within one year after the date of the rendition of the order or decree to be modified, there shall be attached to the motion an affidavit executed by the person making the motion. The affidavit must contain, along with supporting facts, at least one of the following allegations ~~that [along with the supportive facts]~~:

(1) ~~[that]~~ the child's present environment may endanger his physical health or significantly impair his emotional development; ~~or~~

(2) ~~[that]~~ the sole managing conservator is the person seeking the modification or consents to the modification, and the modification is in the best interest of the child; or

(3) the child's sole managing conservator has voluntarily relinquished the actual care, control, and possession of the child for more than six months and the modification is in the best interest of the child.

SECTION 9. (a) This Act takes effect September 1, 1993.

(b) This Act applies to an original or modified order in a suit affecting the parent-child relationship under Title 2, Family Code, made on or after that date. The change made by this Act to Section 14.08(d), Family Code,

applies only to a proceeding under that section in which a hearing has not been held before the effective date of this Act.

(c) The enactment of the amendments made by this Act does not affect the validity or obligations, terms, and conditions of an order in a suit affecting the parent-child relationship made before the effective date of this Act, and this Act does not constitute a change of circumstances under Section 14.08, Family Code.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The committee amendment was read and was adopted by a viva voce vote.

Senator Harris of Tarrant offered the following amendment to the bill:

Floor Amendment

Amend **H.B. 1630** as follows:

In **SECTION 1**, page 3, line 18, in Family Code Sec. 14.02(b)(3)(C) after the words "including the right to establish the child's legal domicile" and before the word "and" insert the words "and the primary residence of the child".

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Harris of Tarrant and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1630 ON THIRD READING

Senator Harris of Tarrant moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1630** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

(President in Chair)

COMMITTEE SUBSTITUTE

HOUSE BILL 1660 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1660, Relating to sales and use tax exemptions for religious, charitable, educational, and public service organizations.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1660 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 1660** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1684 ON SECOND READING

On motion of Senator Carriker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1684, Relating to the farm and ranch finance program; granting the authority to issue bonds; providing penalties.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1684 ON THIRD READING

Senator Carriker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1684** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 1773 ON SECOND READING

On motion of Senator Carriker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1773, Relating to the use of in-house counsel by the Banking Department of Texas.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1773 ON THIRD READING

Senator Carriker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1773** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 1899 ON SECOND READING

On motion of Senator Rosson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1899, Relating to solicitations for veterans organizations; providing penalties.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1899 ON THIRD READING

Senator Rosson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1899** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

SENATE RULE 11.11 SUSPENDED
(Posting Rule)

On motion of Senator Zaffirini and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Health and Human Services might meet today.

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Rosson and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on State Affairs might consider the following bills today:

H.B. 1642
H.B. 2243

SENATE RULE 11.19 SUSPENDED
(Posting Rule)

On motion of Senator Henderson and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Jurisprudence might consider **H.B. 1731** on Tuesday, May 25, 1993.

RECESS

On motion of Senator Truan, the Senate at 12:22 p.m. took recess until 2:00 p.m. today.

AFTER RECESS

The Senate met at 2:00 p.m. and was called to order by Senator Haley.

MESSAGE FROM THE HOUSE

House Chamber
May 21, 1993

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 7, Relating to public school education and finance. (As substituted and amended)

S.B. 673, Relating to the continuation and operation of the State Board of Dental Examiners and to the regulation of the practice of dentistry and dental hygiene; providing penalties. (As substituted and amended)

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE RULE 7.21 SUSPENDED
(Printing Rule)

On motion of Senator Ratliff and by unanimous consent, Senate Rule 7.21, as it relates to Senate bills with House amendments, was suspended for **S.B. 7**.

ORDERED NOT PRINTED

On motion of Senator Truan and by unanimous consent, the House amendments to **S.B. 7** were ordered not printed in the Senate Journal.

SENATE BILL 7 WITH HOUSE AMENDMENTS

Senator Ratliff called **S.B. 7** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

The amendments were read.

Senator Ratliff moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **S.B. 7** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Ratliff, Chair; Haley, Lucio, Luna, and Sibley.

MEMORIAL RESOLUTION

S.R. 1008 - By Turner: In memory of Sam Grady Wynn of Dallas.

CONGRATULATORY RESOLUTIONS

H.C.R. 72 - (Carriker): Honoring Ben Blackburn for his contributions to his community and state.

S.R. 1005 - By Truan: Recognizing the retirement of Chief Justice Paul Nye after years of service in the judicial system of Texas.

S.R. 1006 - By Luna: Congratulating Mr. and Mrs. Alberto Yates on the occasion of their 51st wedding anniversary.

S.R. 1007 - By Brown: Recognizing Colonel Terry Oliver Bliquez, who is retiring from the United States Air Force after a career spanning 26 years.

S.R. 1009 - By Turner: Congratulating Mr. and Mrs. Joe Langley of Centerville on the occasion of their 25th wedding anniversary.

S.R. 1010 - By Brown: Recognizing the retirement of Alma Jean Haynes after 45 years of service to the Brazosport Independent School District.

ADJOURNMENT

On motion of Senator Truan, the Senate at 2:05 p.m. adjourned until 10:00 a.m. tomorrow.

APPENDIX

REPORTS OF STANDING COMMITTEES

The following committee reports were received by the Secretary of the Senate:

May 20, 1993

EDUCATION — C.S.H.B. 1064

HEALTH AND HUMAN SERVICES — C.S.H.B. 54, H.B. 616, H.B. 933, H.B. 944, C.S.H.B. 1551, C.S.H.B. 1626, H.B. 1835, C.S.H.B. 2180, S.R. 969, H.B. 2385, C.S.H.B. 1510

May 21, 1993

NATURAL RESOURCES — H.B. 2516, H.B. 2049 (Amended), H.B. 866, H.B. 2829, H.B. 2814, H.B. 2199, S.C.R. 89

ECONOMIC DEVELOPMENT — S.B. 1490, H.B. 2747, C.S.H.B. 1772, H.B. 1212, C.S.H.B. 456, H.B. 362, H.B. 2227, H.B. 1948, H.B. 1766, H.B. 1441, H.B. 520

NATURAL RESOURCES — H.B. 1970, H.B. 1417, H.B. 1559, H.B. 2623, H.B. 1938, H.B. 2024, H.B. 880, H.B. 2009, C.S.H.B. 2815, H.B. 2429, H.B. 2016, H.B. 2622, H.B. 1432 (Amended), H.B. 714, H.B. 2828, H.B. 2564 (Amended), H.B. 644, H.B. 2242, H.B. 1877, H.B. 2492, C.S.H.B. 2820, H.B. 2862

HEALTH AND HUMAN SERVICES — C.S.H.B. 2741, C.S.H.B. 1479

FINANCE — C.S.H.B. 835, C.S.H.B. 706, C.S.H.B. 1952, H.B. 1942

SUBCOMMITTEE ON ELECTIONS AND ETHICS — H.B. 68, C.S.H.B. 2468

STATE AFFAIRS — C.S.H.B. 2260, H.B. 630, H.B. 1878, C.S.H.B. 1445

NATURAL RESOURCES — C.S.H.B. 2537

STATE AFFAIRS — C.S.H.B. 977

SUBCOMMITTEE ON ELECTIONS AND ETHICS — C.S.H.B. 74

STATE AFFAIRS — H.B. 1895, H.B. 1896, H.B. 641, H.B. 1843,
H.B. 859, H.B. 2835

FILED WITH SECRETARY OF STATE

(May 20, 1993)

S.J.R. 19

SEVENTY-THIRD DAY

(Saturday, May 22, 1993)

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Sims.

A quorum was announced present.

Senate Doorkeeper James Morris offered the invocation as follows:

Our heavenly Father, this morning we pray for these who come together to continue their work these remaining hours of this 73rd Legislature. Much is yet to be decided and we pray You will grant to each participant patience and fairness as they work to achieve that which they are committed to accomplish for the children, the parents, and the teachers of Texas. This is our prayer and it is in Your name. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

On motion of Senator Rosson, Senator Sims was granted leave of absence for today on account of important business.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read first time and referred to the committees indicated:

H.B. 2500 to Committee on Intergovernmental Relations.

H.B. 2817 to Committee on Natural Resources.

H.B. 2866 to Committee on Natural Resources.